

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 31, 2003 at 10:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 444 (3/27/2003); SB 349
(3/27/03)
Executive Action: SB 337 Be Concurred In; SB 46 Table

HEARING ON SB 444

Sponsor: SEN. JON TESTER, SD 45, Big Sandy

Opening Statement by Sponsor:

SEN. TESTER said this bill generally revises securities laws, insurance laws, and elder and persons with developmental disabilities abuse laws to provide for the protection of consumers and senior citizens and persons with developmental disabilities with respect to the marketing of securities and insurance products. It also restricts the manner in which insurance producers may act as legal guardians of clients. This bill expands the definition of "security" to include viatical settlement purchase agreements, modifies the definition of "viatical" settlement contract and provides for penalties and other remedies with respect to persons failing to respond to certain information requests of the Insurance Commissioner. It expands the scope for which injunctions and other remedies are available under insurance laws. It provides additional penalties for domestic insurers failing to properly maintain records. This bill modifies penalties for insurance producers or adjusters operating without a license and provides that the definition of "exploitation" under elder and persons with developmental disabilities abuse laws includes acts done in the course of an offer or sale of securities or insurance products. This bill imposes a possible felony sentence for a conviction of elder and persons with developmental disabilities abuse.

{Tape: 1; Side: A; Approx. Time Counter: 21 - 53}

Proponents' Testimony:

Jill Gerdrun, State Auditor's Office, presented written testimony regarding this bill. She also explained the changes in the bill.

EXHIBIT (buh68a01)

{Tape: 1; Side: A; Approx. Time Counter: 53 - 121}

Cory Swanson, Coventry First, explained what a life settlement is. A viatical settlement would be when a person has a life insurance policy for many years, and the person holding the policy dies, that policy matures and the beneficiaries receive the money. A person can also turn their life insurance policy back over to the company and surrender the value into cash.

{Tape: 1; Side: A; Approx. Time Counter: 121 - 213}

Don Allen, American Association of Insurance Financial Advisors, said this bill is a consumer protection bill and they support it.

{Tape: 1; Side: A; Approx. Time Counter: 213 - 229}

Frank Cote, Health Insurance Association of America, said they support this bill.

{Tape: 1; Side: A; Approx. Time Counter: 229 - 235}

Pat Callbeck Harper, Associate State Director, AARP Montana, presented written testimony.

EXHIBIT (buh68a02)

{Tape: 1; Side: A; Approx. Time Counter: 235 - 248}

Jacqueline Lenmark, American Insurance Association, said she is also testifying on behalf of Sue Weingartner, American Insurance Association, and said they support this legislation. It advances important public policy without impeding the operation of the companies who are members of their Association.

{Tape: 1; Side: A; Approx. Time Counter: 248 - 256}

Anita Rossman, Montana Advocacy Program, said their organization investigates allegations of abuse and neglect. This bill enhances the penalties that are currently available for prosecuting people who commit abuses in facilities where the elderly and developmentally disabled reside.

{Tape: 1; Side: A; Approx. Time Counter: 256 - 328}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BITNEY asked Ms. Gerdrun if an insurance representative can act as a legal guardian. **Ms. Gerdrun** said, "Yes they can as long as the client is a policyholder."

{Tape: 1; Side: A; Approx. Time Counter: 328 - 430}

REP. MENDENHALL asked Ms. Gerdrun about adult protective services and the penalties which might occur if there is wrongdoing. **Ms. Gerdrun** said she did not know which other states have this policy.

{Tape: 1; Side: A; Approx. Time Counter: 430 - 500}

CHAIRMAN MCKENNEY asked SEN. TESTER what section is the "meat of the bill." **SEN. TESTER** said this is a "meaty" bill overall.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 20}

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 20 - 38}

HEARING ON SB 349

Sponsor: SEN. SHERM ANDERSON, SD 28, Deer Lodge

Opening Statement by Sponsor:

SEN. ANDERSON said this bill adopts a model act regarding the use of credit information in personal insurance. It also provides the purpose, scope and definitions for the act. It establishes criteria for the use of credit information in insurance underwriting providing for dispute resolution and error correction. This bill also provides for a notice to consumers of the use of credit information and adverse action based on the use of credit information. It also requires insurers to file their credit scoring models.

{Tape: 1; Side: B; Approx. Time Counter: 38 - 72}

Proponents' Testimony:

Jacqueline Lenmark, American Insurance Association (AIA), provided a comparison of this bill and HB 184. She stated that AIA prefers this bill.

EXHIBIT (buh68a03)

{Tape: 1; Side: B; Approx. Time Counter: 72 - 192}

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said they support this bill and HB 184.

{Tape: 1; Side: B; Approx. Time Counter: 192 - 218}

John Metropoulos, National Association of Independent Insurers, said this bill has been drafted very carefully. His clients strongly support this bill.

{Tape: 1; Side: B; Approx. Time Counter: 218 - 238}

Sue Weingartner, Alliance of American Insurers, said the Legislature is attempting to seek balance between the use of credit information and insurance and the business needs of insurers. In this bill, there are significant restrictions on the ability of an insured to use credit. She also provided written testimony.

EXHIBIT (buh68a04)

{Tape: 1; Side: B; Approx. Time Counter: 238 - 252}

Greg Van Horssen, State Farm Insurance, said this legislation is currently in effect in Georgia, Illinois, Kansas, North Dakota, Oklahoma, Nebraska, Virginia and hopefully Montana.

{Tape: 1; Side: B; Approx. Time Counter: 252 - 290}

Don Allen, Montana Association of Insurance & Financial Advisors, said they support this bill.

{Tape: 1; Side: B; Approx. Time Counter: 290 - 293}

Opponents' Testimony:

Jill Gerdrun, State Auditor's Office, presented written testimony regarding credit scoring; a comparison of SB 349 to HB 184 and identification of differences, and a copy of SB 349 with changes.

EXHIBIT (buh68a05)

EXHIBIT (buh68a06)

EXHIBIT (buh68a07)

{Tape: 1; Side: B; Approx. Time Counter: 293 - 470}

Pat Callback Harper, AARP Montana, said they have credit scoring as one of their top priorities. They are concerned about omissions in Section 5 of this bill, and Sections 1 and 2 are much stronger as it relates to specific protections to the consumer.

{Tape: 1; Side: B; Approx. Time Counter: 470 - 500}

Matt Leo, Montana Public Interest Research Group, said they oppose this bill. The time has come to decide which is the better bill. He stated that HB 184 is a better bill.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 7}

Informational Testimony:

SEN. VICKI COCCHIARELLA, SD 32, Missoula, said the Senate was not doing action on HB 184 until the status of this bill is determined. This bill is model legislation which comes from the insurance industry. She indicated she has been involved in credit scoring herself.

{Tape: 2; Side: A; Approx. Time Counter: 7 - 40}

Questions from Committee Members and Responses:

REP. MATTHEWS asked Ms. Gerdrun which of the two bills the Auditor's office favored. **Ms. Gerdrun** indicated they preferred HB 184.

{Tape: 2; Side: A; Approx. Time Counter: 40 - 57}

REP. MAEDJE asked Ms. Gerdrun if this bill has any affect on commercial insurance. **Mr. Gerdrun** said it did not.

{Tape: 2; Side: A; Approx. Time Counter: 57 - 108}

Closing by Sponsor:

The Sponsor closed.

{Tape: 2; Side: A; Approx. Time Counter: 108 - 203}

EXECUTIVE ACTION ON SB 337

{Tape: 2; Side: A; Approx. Time Counter: 245 - 500}

Motion: REP. MAEDJE moved that SB 337 BE CONCURRED IN.

Discussion:

CHAIRMAN MCKENNEY said he supports this bill.

Mr. Campbell said he would prepare a conceptual amendment for this bill.

REP. GALVIN-HALCRO said she opposes this bill.

Vote: Motion carried 14-4 with REPS. WEISS, WILSON, GALVIN-HALCRO, GALLIK voting no.

EXECUTIVE ACTION ON SB 46

Motion: REP. GALVIN-HALCRO moved that SB 46 BE CONCURRED IN.

Motion: REP. MENDENHALL moved that SB 46 BE AMENDED.
EXHIBIT (buh68a08)

Discussion:

REP. MENDENHALL explained the amendments.

REP. MORGAN asked REP. MENDENHALL what the opinion was of the counties and contractors regarding the amendments. REP. MENDENHALL said the county commissioners did not oppose the first amendment. The contractors were very much in favor of the first amendment; and they prefer not adopting the second amendment.

REP. GALVIN-HALCRO said the current language should stand in the bill.

REP. KEANE said he agreed with REP. GALVIN-HALCRO.

REP. BOOKOUT-REINICKE suggested segregating the amendments.

CHAIRMAN MCKENNEY said he support the first amendment.

Motion/Vote: A roll call vote was taken to adopt #1 of the amendments. Motion failed 9-9 with REPS. MCKENNEY, BITNEY, BOOKOUT-REINICKE, HAWK, MAEDJE, MATTHEWS, MENDENHALL, MORGAN and ROME voting aye.

Motion/Vote: A roll call vote was taken to adopt #2 of the amendments. Motion failed 9-9 with REPS. MCKENNEY, STEINBEISSER, BITNEY, HAWK, MAEDJE, MATTHEWS, MENDENHALL, MORGAN and ROME voting AYE.

Motion/Vote: REP. BITNEY moved SB 46 BE CONCURRED IN. A roll call vote was taken. Motion failed 9-9 with REPS. STEINBEISSER, KEANE, BERGREN, BOOKOUT-REINICKE, GALLIK, GALVIN-HALCRO, LAWSON, WEISS and WILSON voting aye.

Motion/Vote: REP. BITNEY moved that SB 46 BE TABLED. Motion carried 10-8 with REPS. STEINBEISSER, KEANE, BERGREN, GALLIK, GALVIN-HALCRO, LAWSON, WEISS, and WILSON voting no.

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh68aad)